

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7746

Petition of Vermont Telephone Company, Inc. for a)
Certificate of Public Good to Own and Operate a Cable)
Television System to Provide Services in the)
Municipalities of Andover, Athens, Bridgewater, Chester,)
Clarendon, Danby, Dorset, Grafton, Hartland, Ira,)
Killington, Middletown Springs, Mount Holly, Mount)
Tabor, Pawlet, Plymouth, Reading, Rockingham, Rupert,)
Shrewsbury, Springfield, Tinmouth, Wallingford,)
Weathersfield, Wells, West Windsor, Westminster,)
Windham, and Woodstock, Vermont Pursuant to 30)
V.S.A. §§ 503, 504)

Entered: 9/20/2011

CERTIFICATE OF PUBLIC GOOD ISSUED TO VERMONT TELEPHONE
COMPANY, INC.
PURSUANT TO 30 V.S.A. §§ 503 AND 504

IT IS HEREBY CERTIFIED that the Public Service Board ("Board") of the State of Vermont on this date finds and adjudges that the issuance of a Certificate of Public Good ("Certificate" or "CPG") to Vermont Telephone Company, Inc. ("VTel") to provide cable television service as defined in 30 V.S.A. § 501(2), in VTel's existing service area for local telecommunications service defined by the telephone exchanges of Bridgewater, Chester, Cuttingsville, Danby, Grafton, Hartland, Middletown Springs, Mount Holly, Pawlet, Saxtons River, Sherburne, Springfield, and Wallingford, within all of the towns it presently serves, which includes parts or all of the Towns of: Andover, Athens, Bridgewater, Chester, Clarendon, Danby, Dorset, Grafton, Hartland, Ira, Killington, Middletown Springs, Mount Holly, Mount Tabor, Pawlet, Plymouth, Reading, Rockingham, Rupert, Shrewsbury, Springfield, Tinmouth, Wallingford, Weathersfield, Wells, West Windsor, Westminster, Windham, and Woodstock,

Vermont ("VTel Service Territory"), and the operation of cable systems in said cities and towns¹ and service areas will promote the general good of the State of Vermont, subject to the following conditions:

1. This CPG does not grant to any entity, other than VTel, which may intend to provide cable television service over the above network utilizing an open access arrangement, authority to provide cable television service in Vermont. To the extent required by law, any entity, other than VTel, which seeks to offer cable television service using the above cable network shall first obtain a separate CPG from this Board pursuant to 30 V.S.A. §§ 231 and 503.

2. If VTel enters or has entered into an agreement to lease, sell, or otherwise arrange to provide or share cable television facilities or services as defined in 30 V.S.A. § 501(2) in Vermont to, or with, any affiliates, the agreement or arrangement shall be reduced to writing, including the date, and shall be made available to the Department of Public Service ("Department") and the Board upon request.

3. For the purpose of calculating the gross revenue tax under 30 V.S.A. § 22, VTel shall use the following definition of cable television services gross revenues: all cash, credit, property of any kind or nature, or other consideration received directly or indirectly by VTel derived from the operation of the cable system that is subject to this CPG, including, but not limited to, monthly fees charged to subscribers for basic service; monthly fees charged to subscribers for any optional cable television service; pay television fees; pay-per-view fees, premium service fees, monthly fees charged to subscribers for any tier of cable television service other than basic service; installation, disconnection and reconnection cable television fees; late fees charged to subscribers; leased-channel fees; fees, payments or other consideration received from programmers; fees, payments or other consideration received from third parties for lease of space on either fiber or coaxial cable for cable television; converter rentals or sales for cable television; studio rental, production equipment and personnel fees; advertising revenues for cable television; and revenues from home shopping networks and revenues from Internet access service.

4. For purposes of calculating funding for Public, Educational, and Governmental

1. A CPG for a city, town, gore, or service area is a franchise to serve customers throughout that area, subject to the company's line extension tariff and the provisions of the CPG.

("PEG") access, in the absence of an agreement otherwise, VTel shall use the definition of gross revenues in the preceding paragraph except that Internet access service revenues shall be excluded from the calculation unless and until Congress, the Federal Communications Commission ("FCC"), or a court of competent jurisdiction or governmental agency of competent jurisdiction issues a final ruling or order, not subject to appeal, that such revenues shall be included in such a calculation of gross cable service revenues.

5. VTel shall maintain at its business office schedules of the rates, terms and conditions of services as required by Board Rule 8.312(A).

6. VTel shall provide separate financial accounting for cable television operations in its annual report.

7. VTel shall not itemize on subscriber bills the Vermont gross revenue tax, imposed on VTel pursuant to 30 V.S.A. § 22, unless Vermont law allows such itemization.

8. VTel shall at all times provide a reasonable quality of cable television service, having regard to FCC minimum service standards, available technology, subscriber interest, and costs. VTel shall at all times offer a reasonably priced broad range of programming, having regard to the available technology, subscriber interest, the revenues and potential revenues of the system, and costs. The Board shall, to the extent permitted by law, retain jurisdiction to prescribe broad categories of programming.

9. If VTel does business in the State of Vermont under any name other than the name in use on the date of the Order in this Docket, thirty (30) days prior to doing so it shall file a notice of the new tradename, along with a copy of its Vermont Secretary of State's Tradename Certificate, with the Clerk of the Board and the Department.²

10. VTel shall at all times comply with Vermont law and all applicable Rules and regulations, as they may be amended from time to time.

11. VTel shall comply with all regulations of the FCC, including the regulations governing commercial leased access. Compliance with the commercial leased-access rules

2. For a corporate name change, *see* 11 V.S.A. § 4.01 and 30 V.S.A. § 231. The Petitioner may wish to contact the Clerk of the Board for assistance.

currently requires VTel to provide non-discriminatory access to its facilities to all video programmers qualified by the leased-access regulations for such access.

12. This Certificate shall expire eleven years from the date of this Certificate.

13. This Certificate shall be subject to revocation upon a showing of good cause, including a substantial or continuous failure to abide by its material terms or the representations of the Petition.

14. This Certificate shall not be transferred without the consent of the Board.

Public, Educational, and Governmental Access

15. VTel shall provide reasonable public, educational, and governmental access in accordance with the standards for public, education and governmental access set forth in § 8.400 of the Vermont Public Service Board Cable Television Rule 8.000 et seq. as may be amended from time to time. VTel is required to maintain, and file with the Department and the Board with its first annual report, a plan for reasonable public access for all of its headend areas ("Plan"). The Plan shall provide for public access appropriate to each headend system, in light of current technology and the economics of each system.

16. Board Rule 8.400 shall apply to VTel, to any access management organizations ("AMOs") which VTel may designate and contract with, and to any organizations that seek VTel's designation as an AMO. VTel shall comply with Rule 8.400 as may be amended from time to time.

17. VTel shall designate one or more AMOs as provided in Rule 8.400. VTel shall provide funding in a manner consistent with Federal law.

18. VTel shall file with the Board and Department copies of all PEG-access contracts with AMOs, and any amendments thereto, within 30 days of execution.

19. VTel must work with the relevant AMO prior to any PEG access channel reassignment. VTel shall not reassign a PEG access channel without sixty (60) days written notice and consultation with the AMO.

20. VTel may interconnect the system for the provision of PEG access programming within the municipalities served by VTel. If an AMO studio is located within the VTel Service Territory, VTel shall connect directly to the studio, at VTel's expense. If VTel does not serve the portion of the municipality in which the AMO is located, VTel shall provide an access point for such AMO up to and within the border of the VTel Service Territory at VTel's expense and the AMO will be responsible to bring its connection to such access point. VTel shall bear its own costs of network interconnection. In the event that VTel determines that interconnection with the incumbent cable provider is appropriate, VTel shall negotiate in good faith with the incumbent cable provider or its successor any and all costs of interconnection. Such an agreement shall address, among other things, issues relating to interconnection points, testing, repair and maintenance obligations, means of interconnection, adherence to transmission standards, and legacy costs.

21. VTel shall provide basic cable service to every K-12 public school, public library, and PEG access studio within the VTel Service Territory, and to at least one municipal building within the VTel Service Territory (if any) in every municipality in the VTel Service Territory, upon request of the school, library, PEG entity or municipality, subject to the following provisions of this condition. VTel shall provide a standard aerial installation at no charge to the requesting entity to buildings located within 500 aerial feet of its distribution plant. Entities requiring or requesting a non-standard installation are responsible for paying the incremental cost associated with the non-standard installation. This condition does not apply to buildings not passed by or located within 500 aerial feet of VTel's distribution plant.

22. VTel shall provide fiber-optic or coaxial-cable drops, capable of two-way service and remote origination service, upon request, to every K-12 public school, public library, and PEG-access studio within the VTel Service Territory, and to at least one municipal building within the VTel Service Territory (if any) in every municipality in the VTel Service Territory, upon request of the school, library, PEG entity or municipality. VTel may provide the two-way service through a drop that is separate from any drop used to provide cable television service, or provide or arrange for high-speed Internet access service to that entity. VTel shall provide and activate each requested drop within 6 months of receiving a request from the

respective school, library, AMO, or municipality, provided, however, that VTel is able to obtain all necessary approvals and permits pursuant to Rule 3.700. This condition does not require VTel to provide drops to buildings that are neither passed by nor located within 500 feet of cable plant unless an entity is willing to reimburse VTel for the incremental cost of the non-standard installation. VTel shall provide basic cable service at each drop and shall provide standard installation at no charge. Upon request, VTel shall provide an entity described in this paragraph with a non-standard installation, provided the entity pays the difference in cost between the standard and non-standard installation.

23. At a minimum, VTel must provide the following PEG access outreach:

- (a) Fund semi-annual, black-and-white quarter-page advertising in local newspapers promoting PEG access programming and functions;
- (b) If requested, assist AMOs in placing their channel programming in a local newspaper's television listing grid where such a listing is feasible;
- (c) If requested, provide AMOs with procedures, including costs associated therewith, for placement of AMO advertising on cable networks; and
- (d) Allow PEG access groups access to VTel's electronic programming guide and pay the fee so that the groups can have their schedules listed on that channel.

24. VTel shall respond to reasonable requests by AMOs to communicate with VTel's subscribers. Any direct costs incurred by VTel due to such communications shall be borne by the requesting AMO.

25. Total operating funding within each system served by one or more AMOs shall not exceed 5% of the annual gross revenues earned in that system. Unpaid balances owed by VTel shall earn interest at the prime rate, commencing the day after the due date.

26. VTel shall not unreasonably deny a request to meet with an AMO's governing board.

27. VTel shall maintain PEG Policies and Procedures that ensure adequate and prompt resolution of technical and administrative matters that arise between VTel and the AMO which include:

- (a) Identification of the types of matters that are likely to arise in the future between the AMOs and VTel and the urgency demanded by the respective matters;

- (b) Designation of an appropriate Company liaison for each type of matter, on a system-by-system basis when necessary;
- (c) Delineation of the responsibilities and authority of the designated Company liaison, including how that individual will be trained to handle the individual's role and time frames for response;
- (d) A mechanism for escalation of matters which have not been satisfactorily resolved by the liaison; and
- (e) A periodic review process for the AMOs and VTel to jointly review the effectiveness of the procedures at least semi-annually.

Line Extensions

28. Until such time that the initial build-out of the facilities used to provide cable television services is complete, VTel shall file quarterly reports with the Board and the Department upon the completion of the first calendar quarter for which VTel is authorized to provide cable television service, and continuing until the requirements set forth in this paragraph are satisfied, containing the following information:

- (a) Identification of the public ways and extensions to be constructed in the VTel Service Territory encompassed by this CPG;
- (b) Anticipated completion date;
- (c) Status of make-ready work affecting the identified construction along the public ways and extensions;
- (d) Status of pole applications affecting the identified construction along the public ways and extensions; and
- (e) The projected completion date for the construction along the public ways and line extensions in the VTel Service Territory encompassed by this CPG to which VTel does not yet provide service and an explanation of the reasons for delay, if any, relative to the buildout plan described by VTel in its petition for a CPG.

29. Prior to offering cable service anywhere in the geographic area encompassed by this Certificate, VTel shall file with the Board, for the Board's approval, a statement of the Company's policy on line extensions. The policy must conform to the provisions of Board

Rule 8.313, subject to the following provisions of this condition. With regard to requests for line extensions to provide telephone service, VTel shall continue to use its current telephone line extension policy pursuant to its Certificate of Public Good to provide telecommunications service. Where a customer requests a line extension for both cable and telephone service, VTel shall apply whichever policy is less expensive for the customer.

30. VTel is granted a waiver from the requirements of Board Rule 8.313 for a period of thirty (30) months following issuance of this Certificate in order to complete construction of facilities to provide cable service.

31. VTel is neither prohibited from, nor required to, overbuild another company, or provide cable service to locations served by another cable company, or to locations to which another cable company has made a binding commitment to extend service within eighteen (18) months. For purposes of this condition, "serve" means the duty to build a network so as to pass every required residence and business within the length of a standard no-charge service drop, and be willing, ready, and able to provide service from that plant to any customer that requests it.

Customer Service and Subscriber Notices

32. VTel shall annually cause to be mailed to each of its subscribers a notice or notices approved by the Board, to the extent required by law that:

- (a) State the Board and the Department desire to hear the views of subscribers regarding the quality of services provided by VTel and as to the reasonableness of the terms upon which such services are provided;
- (b) Inform the subscribers of how they may communicate their views to the Board, the Department, and to VTel; and
- (c) Include the notices required by Board Rule 8.341 and 47 C.F.R. § 76.1602(b)-(c).³

33. On or before January 30 of each year, VTel shall certify to the Board, under oath, with a copy to the Department that it has distributed the notice(s) required in Condition 32(a)-(b), above, during the previous calendar year.

34. VTel shall annually notify all subscribers of the complaint and appeal procedure for

3. All references to sections of 47 C.F.R. are intended to refer to those sections as they may be amended from time to time.

complaints against VTel itself and any PEG access administrative entity in VTel's system.

35. VTel shall ensure that all customer notices are in plain English at no greater than a sixth-grade reading level.

36. VTel shall provide customers at the time of any service order with a clear and understandable description of the terms, conditions, rates and charges for all requested services and appropriate alternatives, which shall include the least-cost alternatives to the requested service. VTel shall disclose, at a minimum, any non-recurring charges, such as for cable television installation, the recurring charges for cable television services, any charges that apply to a change in service or periods in which such charges are waived, and information about cable television equipment, policies and procedures.

37. VTel shall provide all consumers at the time of installation with a clear written notice complying with 47 C.F.R. §76.1618's stating that the basic tier of service is available, its cost per month, and a list of all services included in the basic tier.

38. VTel shall list the toll-free telephone number of the Department on its bills and in the "complaint procedures" section of its annual notices along with the following language: "You should first try to resolve any complaint or dispute directly with VTel. If you remain unsatisfied by VTel's response, you may request assistance from the Vermont Department of Public Service Consumer Hotline by calling 1-800-622-4496, or email consumer@state.vt.us." VTel shall also list and maintain a toll-free telephone number so that complaints and requests for repairs or adjustments may be received.

39. VTel's complaint procedure and any other relevant sections of the annual notice provided to consumers shall comply with 47 C.F.R. § 76.1602(b), including specific reference to the "Vermont Public Service Board" as the local-franchising authority for all Vermont systems. At no time shall VTel represent to customers, either in writing or orally, that any municipality is a local franchising authority in Vermont.

40. VTel shall ensure that its annual customer notice is specific and detailed with respect to Vermont policies and procedures.

41. VTel shall ensure compliance with 47 C.F.R. § 76.309(c)(3), which requires that refund checks due to customers shall be issued no later than (a) the earlier of the next billing

cycle following resolution of the request or thirty (30) days, or (b) the return of equipment supplied by the operator if service is terminated.

42. VTel shall provide outage credits and/or refunds to customers without the necessity of the customer contacting VTel in those instances in which VTel knows an outage has occurred and has affected a particular system or portion of a system. VTel's outage credit policies and practices shall at all times be consistent with Board Rule 8.343.

43. If VTel decides to raise rates more than once in any calendar year, VTel shall include with its rate change notice to the Board, and provide a copy to the Department of, a written explanation of the circumstances or other reasons that necessitate VTel's need to increase its rates.

44. VTel shall, no later than sixty (60) days from the Board Order in this docket, submit its disconnection notice to the Board for approval. In advance of that filing, VTel shall provide a draft of its disconnection notice language to the Department for review and comment.

45. Board requirements relating to telephone disconnections will apply to disconnection of telephone service provided either on a stand-alone basis or as part of a package that is bundled with cable television or another service. Where a single bill covers telephone and another service provided as a separate (i.e., unbundled) service and the customer remits a partial payment without indicating how it is to be allocated among services, VTel shall allocate the payment first to telephone service.

46. VTel shall adhere to the customer service standards contained in 47 C.F.R. § 76.309. VTel must monitor and report on its customer service performance in relation to all FCC and Board customer-service standards in accordance with its Service Quality Plan, which must receive Board approval prior to commencement of service under this CPG, and may be amended as needed with the agreement of the Department. Quarterly, beginning with the quarter following Board approval of VTel's Service Quality Plan, VTel shall submit monitoring reports on its performance to the Department and the Board. Where quarterly performance falls more than 10 percent below any standard, or where performance does not meet any standard for two consecutive quarters, VTel shall submit to the Department and Board a corrective action plan indicating how it will meet the failed standards. VTel shall treat all written complaints from

subscribers in accordance with 47 C.F.R. § 76.1619(b) and Board Rule 8.345.

Institutional Networks

47. VTel shall be obligated to offer service, upon request, enabling every school, library, and PEG-access studio, and at least one municipal building in the municipalities in which it offers cable service to have access to an institutional network or networking on a fee-for-service basis.

48. VTel shall develop and submit a proposal within 90 days in response to any qualified request for proposals ("RFP") issued by a state or local government agency, educational institution (accredited elementary schools, secondary schools, colleges and universities, and libraries open to the general public), or educational or governmental access entity ("institutions") seeking an institutional network for voice, video, or data within its franchised area. An RFP shall be deemed qualified if it contains the following information:

- (a) The specific locations to be linked (which may include interconnection points with other cable systems or telecommunications providers to be determined later);
- (b) The desired transmission capacity or amount of dark optical fiber or fiber-based service; and
- (c) A description of the desired applications to be operated over the institutional network.

VTel shall not be required to construct dedicated facilities for institutional networks, where facilities shared with other services and networks meet the requirements of the institutions. The implementation of a facilities construction project involving dark fiber shall not require interconnection of that dark fiber with the cable television network or with a headend used to provide regulated cable television public services under this CPG, nor shall the institution or the users have access to or rights in the headend, nor require that dark fiber be provided in connection with VTel under its Certificate of Public Good to provide telecommunications service. It is understood that VTel may lease, but will not be required to sell, dark fiber. It is understood that VTel may not complete a facilities construction project requiring dark fiber if the necessary labor and/or material is unavailable or is not available on customary and satisfactory terms.

49. VTel's response to a qualified RFP shall include the terms and conditions, including but not limited to rates, tolls, or charges, under which it would make available the institutional network to the requesting entity. Charges for institutional networks shall not exceed the fully allocated costs incurred by VTel and the owners of the network used to provide regulated public services, including a rate of return of 11.25%, to provide the network.

50. VTel shall not charge institutions for construction or extension of cable television facilities used for institutional networks that are required to meet other obligations under this Certificate, or to provide cable television services to other customers. VTel may charge institutions a proportional share of line extensions not otherwise required that will be used for institutional networks but may also be used to serve cable customers.

51. VTel shall respond 24 hours a day, 7 days per week to outages or degradation of service below contracted service provided by VTel under this CPG to institutional networks. If a reported problem with an institutional network cannot be corrected immediately, VTel staff shall promptly explain the status to the institution in person or via phone and provide the approximate time in which the problem will be resolved. A VTel representative shall verify with the institution that services are working either in person or via telephone before the trouble call is closed out. VTel shall provide institutions for which it provisions institutional networks pursuant to this CPG with a local manager to whom it can escalate unresolved problems.

Other Requirements

52. At the time of filing its annual report pursuant to 30 V.S.A. § 22, VTel shall also file with the Board and the Department in hard copy and electronic format the following documents:

- (a) VTel's PEG Access Report, together with any amendments to the Plan;
- (b) A copy of all written consumer complaints and notations regarding oral and telephonic complaints received during the preceding calendar year or annual period;
- (c) A map sufficiently outlining the Service Territory and describing its existing plant and any extensions and replacements planned for commencement or completion within one calendar year from the close of the preceding calendar year or annual period. The map shall also be provided in one of the standard electronic formats: ArcView shapefile

(.SHP) or geodatabase (.MDB) formats (preferred); Arc/Info Interchange (.E00) format; Mapinfo interchange (.MIF) format; Microstation (.DGN) format; or AutoCAD (.DWG or .DXF) formats. The map shall depict the roads where cable plant exists and identify the proposed coordinate system of the electronic map file;

(d) A listing of services, the rate charged for each such service as of the date of the filing of the report, a statement of any changes in any such rates from the preceding calendar year or period, and a statement of the revenue derived from each service during such calendar year or annual period;

(e) A statement of significant changes to be implemented during the current calendar year or annual period in VTel's business structure, operating procedures and services to be offered; and

(f) A balance sheet, an income statement, a statement of changes in financial condition and a statement of assets used and useful for the provision of service in Vermont, all as of the close of the preceding calendar year or annual period.

53. Subject to applicable law, including statutes governing or rules and regulations promulgated by the FCC, VTel shall respond to and negotiate with any digital-broadcast service broadcasting in Vermont, including but not limited to any service that provides High Definition TV or Standard Definition TV multicast services, commercially reasonable terms for the carriage of such services on VTel's system. This condition requires VTel to use its best efforts to reach agreement on such terms but does not require that VTel reach agreement for such carriage.

54. VTel shall, at no charge, provide or arrange to provide Internet access (and a cable modem if required for Internet access) to each AMO facility and each K-12 public school, public library, and municipal facility (if any) within its Service Territory. The internet service provided to an AMO's base production facility shall be commercial-class service.

55. VTel shall abide by the "CAPI Stipulated Criteria for CATV Service Providers," attached hereto as Attachment A.

56. Prices for services not subject to rate regulation shall at all times be reasonable, having regard to the costs of providing such services.

57. Notwithstanding anything in this CPG to the contrary, nothing herein shall (a) require VTel to extend its facilities or offer service outside of the VTel Service Territory, (b) require VTel to offer any facilities or services that are being offered in connection with its CPG to provide telecommunications service to the same location, (c) impose any obligation on VTel under this CPG to serve as a common carrier or otherwise provide telecommunications service or (d) be construed to alter or amend VTel's existing CPG for the provision of telecommunications service, and, unless the context clearly indicates otherwise, all references herein to VTel refer to its cable television service operating division.

Dated at Montpelier, Vermont, this 20th day of September, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 20, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)